Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 4 0 9 - 0 0 5 6 2 - 6 3 0 5 - 1 4 5	Date: 11/12/09	Time: 1540 hours
Location: Breeden, south of 4th Street	City or Station: Santa Ana	
Bureau/Station/Facility: Metrolink Bureau East, Orange County Line	Admin. Investigation: YES ☐ NO ☒	
Type of Force: Controlled holds, hammer strikes to the face, and knee strike to the ribs		
Deputy Injury : YES ☒ NO ☐	Suspect Injury YES ☒ NO ☐	
☐ Call ☒ Observation ☐ Detail	☐ Foot Pursuit ☐ Vehicle Pursuit	
IAB Notified: YES ☒ NO ☐ Person Notified: Lt Scott Brickert	Emp: [redacted]	IAB Roll Out: YES ☒ NO ☐

Involved Employee

E 1

Employee # [redacted]	Last Name Harper	First Name Scott	Middle Name ---
Sex: ☒ Male ☐ Female	Race: W	Unit of Assignment: Metrolink Bureau East	Work Assignment (Unit #, Module, etc.): Unit #614A - Orange County Line
Shift: ☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	Age: 41	Height: 5'09" Weight: 215
☐ Injured ☐ Treated ☐ Admitted	Hospital:	Coroner Case #	Directed Force ☐ Significant Force ☒

E 2

Employee # [redacted]	Last Name Sherred	First Name Brian	Middle Name ---
Sex: ☒ Male ☐ Female	Race: W	Unit of Assignment: Metrolink Bureau East	Work Assignment (Unit #, Module, etc.): Unit #614A - Orange County Line
Shift: ☐ EM ☒ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	Age: 33	Height: 5'11" Weight: 200
☒ Injured ☐ Treated ☐ Admitted	Hospital: Did not seek medical care	Coroner Case #	Directed Force ☐ Significant Force ☒

E_

Employee #	Last Name	First Name	Middle Name
Sex: ☐ Male ☐ Female	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
Shift: ☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty	Age:	Height: Weight:
☐ Injured ☐ Treated ☐ Admitted	Hospital:	Coroner Case #	Directed Force ☐ Significant Force ☐

☐ **Additional Involved Employees**

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	Fletcher	Corey	---	Sgt	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name

Watch Commander

Emp. #	Last Name	First Name	Middle Name

Watch Commander (**Print Name**) | Watch Commander's **Signature**: | Emp #: | Date

Sgt Owen Tong (IAB) | [redacted]

Supervisor Completing Form: **(Print Name)** | Emp #: | Copy Provided to Employee by: | Emp #:

Unit Commander **(Print Name)** | Unit Commander's **Signature**: | Emp #: | Date

DISCOVERY Use Only

FO#

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 12/07)

Supervisor's Report on Use of Force
SUSPECT INFORMATION
409 - 00562 - 6305 - 145

Suspect Information

S 1

Last Name	First Name	Middle Name
Jones	Johnnie	Franklin
AKA Last Name	First Name	Middle Name

Sex: ☒ Male ☐ Female | Race: B | Street Address: Transient (mailing address [redacted] | City: --- | State & Zip Code: ---

Work Phone: --- | Home Phone: --- | Age: 46 | Height: 6'02" | D.O.B. 05-15-64 | Weight: 180 | Armed? ☐

Booking #: 2128043 | Primary Charge Code: 69PC; 148(a)(1)PC; 243(b)PC | Secondary Charge Code: | Criminal History ■

EMT in attendance? ☒ YES ☐ NO Name: Santa Ana Fire Dept Unit: Phone #:

Hospital Admission? ☒ Rec'd Treatment At: Western Medical Center Coroner Case #: Mental History ☐

By Doctor: ER Physician Dr. Myres Address: 1001 N. Tustin Avenue, Santa Ana, CA 92705 Phone #: 1-800-777-7464

Under Influence: ☐ YES ☒ NO Substance: Mental Illness ☐

Suspect Interview

Date: 11-12-09 | Time: 1643 hours | Audiotape: ☐ | Videotape: ☒ | Photos of Injuries: ☐

Suspect Information

S__

Last Name	First Name	Middle Name
AKA Last Name	First Name	Middle Name

Sex: ☐ Male ☐ Female | Race: | Street Address: | City: | State & Zip Code:

Work Phone: | Home Phone: | Age: | Height: | D.O.B. | Weight: | Armed? ☐

Booking #: | Primary Charge Code: | Secondary Charge Code: | Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness: ☐

Suspect Interview

Date: | Time: | Audiotape: ☐ | Videotape: ☐ | Photos of Injuries: ☐

Suspect Information

S__

Last Name	First Name	Middle Name
AKA Last Name	First Name	Middle Name

Sex: ☐ Male ☐ Female | Race: | Street Address: | City: | State & Zip Code:

Work Phone: | Home Phone: | Age: | Height: | D.O.B. | Weight: | Armed? ☐

Booking #: | Primary Charge Code: | Secondary Charge Code: | Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: Unit: Phone #:

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case #: Mental History ☐

By Doctor: Address: Phone #:

Under Influence: ☐ YES ☐ NO Substance: Mental Illness ☐

Suspect Interview

Date: | Time: | Audiotape: ☐ | Videotape: ☐ | Photos of Injuries: ☐

☐ **Additional Suspects Involved**

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Johnnie Jones	S#1	Scott Harper	E#1	RS	NN	
Johnnie Jones	S#1	Brian Sherred	E#2	RS	NN	
Johnnie Jones	S#1	Brian Sherred	E#2	PK	CP	LG
Scott Harper	E#1	Johnnie Jones	S#1	CT; RH	NN	
Scott Harper	E#1	Johnnie Jones	S#1	PH	FR	FA
Brian Sherred	E#2	Johnnie Jones	S#1	CT; RH	NN	
Brian Sherred	E#2	Johnnie Jones	S#1	PK	FR	CH

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE INQUIRY

Use of Force Rollout (Suspect Johnnie Jones)
Metrolink Bureau East - Orange County Line

CASE NUMBER: IAB #FO2255229

INVOLVED EMPLOYEES:
1. Deputy Scott Harper [redacted]
2. Deputy Brian Sherred

INVESTIGATOR: Sergeant Scott Hill [redacted]
Assisted by Sergeant Owen Tong

DATE/DAY/TIME: November 12, 2009 / Thursday / 1540 hours
LOCATION: Breeden, south of 4th Street, Santa Ana, CA

Inquiry Summary:

On November 12, 2009, Metrolink East Deputy Scott Harper and Deputy Brian Sherred were assigned to conduct audits of train stations along the Orange County Line, from downtown Los Angeles to Oceanside, in addition to their regular duties of policing the areas along the train tracks **(Exhibit H - Metrolink In-service; and Exhibit E - Deputy Daily Worksheet).**

At about 1540 hours, Deputy Harper (driver) and Deputy Sherred (bookman) had just turned left from westbound 4th Street onto southbound Breeden, in the city of Santa Ana, when they noticed Suspect Johnnie Jones standing in the bushes, just east of the sidewalk **(Exhibit F - photos, maps and diagram)**. Suspect Jones was facing the wall of a building **(Exhibit F - photo)**, with his back to the street and both hands in front of himself. It appeared to the deputies that he was either adjusting his pants, "playing with himself," or urinating in public.

The deputies stopped their patrol vehicle, near the middle of the road behind Suspect Jones, and Deputy Harper told him to turn around. Suspect Jones -- who would later claim he was adjusting his clothing so he could be presentable -- turned around with his hands in his pants pockets, and looking a little nervous, started walking toward the deputies. Deputy Harper

ordered him to take his hands out of his pockets, but when the suspect did not comply, Deputy Harper drew his duty weapon with his right hand and pointed it out the car window at the suspect, ordering him a second time to take his hands out of his pockets. The suspect did not comply and continued to walk toward the deputies.

Concerned that Suspect Jones may have a weapon in his pockets, both deputies exited their vehicle. Deputy Harper ordered Suspect Jones a third time to take his hands out of his pockets, but he still did not comply.

Deputy Harper was the first to reach Suspect Jones on the sidewalk. With the safety off, Deputy Harper held the barrel of his gun about six inches away from Suspect Jones' head. Simultaneously, he grabbed Suspect Jones' left forearm with his left hand and tried to pull him down to the sidewalk. Suspect Jones immediately spun to his right, breaking free of Deputy Harper's grasp. As Suspect Jones started to go down onto the sidewalk on his own, he moved his left hand up to his mouth, as if he was trying to "swallow something."

Somewhere during the initial struggle, Deputy Harper radioed in to SCC to request assistance from Santa Ana PD **(Exhibit D - CD of radio transmission)**.

Once Suspect Jones landed on his right side on the sidewalk, possibly hitting the right side of his face on the concrete, Deputy Harper grabbed his left triceps/shoulder area with his left hand and placed a knee on top of his upper body, while still holding his gun in his right hand. Suspect Jones's right hand was underneath his body near the waist, while his left hand was slightly in front of him (suspect).

At some point, Deputy Harper decided to re-holster his gun and not deploy deadly force. He put out a radio call via SCC that they were involved in an a fight and requested assistance from Santa Ana PD **(Exhibit D - CD of radio transmission)**.

Deputy Sherred got in front of Suspect Jones and as he grabbed for his left hand, Suspect Jones brought his left hand up to his mouth a second time, and this time, Deputy Sherred actually saw him swallow what he believed to be a pea-sized piece of rock cocaine.

As Deputy Sherred continued struggling to gain control of Suspect Jones' left hand, Suspect Jones started kicking him with his left leg, and kneed Deputy Sherred on the right leg. Although Deputy Sherred did not issue any commands during the fight, Deputy Harper repeatedly told Suspect Jones, *"Stop fighting," "Give up,"* and, *"Put your hands behind your back."*

At this point, Deputy Sherred moved over and grabbed the suspect's legs to prevent him from kicking any more. Simultaneously, Deputy Harper used both hands to out-muscle Suspect Jones and pull his left arm behind his back. After rolling Suspect Jones over on his face, Deputy Sherred handcuffed the suspect's left wrist.

Deputy Sherred then moved over to the suspect's right side to pull the suspect's right arm out from under him, but Suspect Jones was too strong, and Deputy Sherred was unable to pull the suspect's right arm out. To force Suspect Jones to loosen up his right arm, Deputy Sherred kneed him twice on his right rib cage, while Deputy Harper delivered two "hammered strikes" with the base of his right fist on the right side of the suspect's face. After that, Deputy Harper was again able to "out muscle" Suspect Jones with both hands and bring his right hand behind his back so Deputy Sherred could fully handcuff both wrists.

After he was handcuffed, Suspect Jones stopped resisting and no other force was used by the deputies. Santa Ana PD Officer [redacted] arrived shortly after the fight, and in his presence, Suspect Jones said he was "sorry for not cooperating" because he "got nervous" **(Exhibit B - Santa Ana PD FIR card).**

Although OC (oleoresin capsicum) spray and the Taser were available to the deputies, both Deputy Harper and Deputy Sherred ruled out its use because the spray would have contaminated each other during the closed-quarter fighting. Also, since there was the threat that the suspect may be armed with a handgun, neither deputy wanted to release what little physical control they had of the suspect, in order to retrieve the Taser.

In his interview at the hospital with Metrolink Bureau Sergeant Corey Fletcher, Suspect Jones alleged that the deputies may have used too much force **(Exhibit C - video DVD).**

Suspect Jones was examined by Santa Ana Fire Department paramedics, Engine Company #2, under Fire Captain Ogren and transported to Western Medical Center in Santa Ana. He was treated by Emergency Room Physician, Dr. Myres, for a fractured right rib and fractured right orbital bone, and was admitted to the hospital. Suspect Jones had two old pre-existing fractures to the ribs as well as an old pre-existing fracture to the jaw.

Deputy Harper was not injured. Deputy Sherred experienced some soreness to the right leg, but he did not seek any medical care.

The following day, on November 13, 2009, Suspect Jones was cited out at the hospital for Resisting an Officer - 69PC (felony), Possession of a Controlled Substance - 11350(a)H&S (felony), and Destruction of Evidence - 135PC (misdemeanor).

Also on November 13, 2009, a blood test by the hospital found no evidence of any controlled substances in Suspect Jones' system **(Exhibit A - search warrant packet, Page 4)**.

On November 30, 2009, Deputy District Attorney Laurie Hungerford rejected the case Due a Lack of Probable Cause and Due to a Lack of Sufficient Evidence to prove 11350(a)H&S and 135PC **(Exhibit A - search warrant packet, Page 5)**.

On February 17, 2010, Detective Dave Long wrote in his Supplemental Report **(Exhibit A - Page 3)** that he requested the District Attorney's Office to re-file on the charge of 69PC and add the new charges of Resisting a Peace Officer - 148(a)(1)PC (misdemeanor) and Battery on a Peace Officer - 243(b)PC (misdemeanor).

> **IAB NOTE:** IAB Lieutenant Scott Brickert rolled out to the scene and wrote a Use of Force memorandum, dated November 13, 2009 **(Exhibit G)**.

STATEMENT SUMMARIES

<u>Suspect Johnnie Franklin Jones Booking #2128043</u>
<u>DOB: 05-15-64</u>
[redacted]

On November 12, 2009, at about 1643 hours, Suspect Johnnie Jones was interviewed by Metrolink Bureau East Sergeant Corey Fletcher. The interview was digitally video recorded by Metrolink East Deputy Michael Scurto and summarized as follows:

> Suspect Jones said he was facing a wall with his back to the street and was tucking his many layers of clothing into his pants when he looked over his shoulder and saw the two deputies (Deputy Brian Sherred and Deputy Scott Harper) pulling up behind him in their vehicle. Both deputies had their guns out and demanded, *"Put your hands up."* Suspect Jones turned to face the deputies, but continued to tuck in his clothing to "look presentable before" he walked up to the deputies.
>
> Suspect Jones said he put his hands up right after he finished tucking in his clothing, but the deputies ran toward him, accusing him of resisting arrest, because they thought he had "some kind of drugs or something." When Suspect Jones tried to tell them he was out of work due to an injury to his lower jaw, they kept accusing him of holding "something."
>
> As Suspect Jones was raising his hands as ordered, Deputy Harper grabbed one of his (left) arms and "threw" him "smacked" onto the concrete, causing the right side of his face to hit the pavement and "busting open" his face. Suspect Jones said he placed his hands behind his back as ordered, but the deputies kept hitting him, because whenever they tried to hit him, he would move.
>
> When Sergeant Fletcher asked Suspect Jones where the deputies had hit him, Suspect Jones replied, *"In the ribs, the back, everywhere. All over in the face,"* and *"all over"* his upper torso area.
>
> When Sergeant Fletcher asked Suspect Jones if the "big old bruise" over his right eye was the result of him landing on the sidewalk, Suspect Jones replied,

"No, but they punched me twice in the eye, in the mouth, in the nose," all on the right side of the face.

Suspect Jones repeatedly claimed that he had "nothing" on him and didn't know what gave the deputies that idea. He said the deputies kneed him on both sides of the ribs, and repeatedly asked him, *"What's in your mouth?"* Suspect Jones denied having anything in his mouth and offered an explanation, stating due to an old injury to his right jaw, he "couldn't really talk," and reasoned that Deputy Harper may have thought he had something in his mouth.

When Sergeant Fletcher asked Suspect Jones if he was handcuffed when he brought his hands behind his back, he said the deputies handcuffed him and were still hitting him. Whenever Sergeant Fletcher tried to clarify if the deputies hit him before or after he was handcuffed, Suspect Jones would not answer the question directly, and said he was struck repeatedly. Then he said the deputies only had one of his wrists handcuffed when they were hitting him, but later he said he didn't know if he was fully handcuffed or not because he just felt pain from the many hits.

Suspect Jones next said the deputies handcuffed him as soon as they grabbed him and kept hitting him non-stop. When Sergeant Fletcher advised him that the beating must have stopped at one point, Subject Jones said the beating lasted for three minutes. But again, later on, Suspect Jones said the handcuffing took place during the beating and that he couldn't tell when he was handcuffed because of the blows. He then said that the "two big" deputies began hitting him before he was handcuffed.

In conclusion, Suspect Jones said, *"I don't think it should've happen like that."* He thought the deputies may have "used too much force."

Involved Employee Scott Harper [redacted]
Deputy Sheriff
Metrolink East - Orange County Line

On December 14, 2009, at about 1142 hours, Deputy Scott Harper was interviewed by IAB Sergeant Scott Hill. Deputy Harper was represented by Ms. Deborah Schild of the law firm of Green and Shinee. The interview was digitally recorded and summarized as follows:

Deputy Harper said he and his partner, Deputy Brian Sherred, are responsible for the Orange County Metrolink line that runs from the Union Station in downtown Los Angeles to the city of Oceanside. Due to Metrolink's large geographical area, whenever they need backup or assistance, they must rely on the local police agencies to come to their aid. The request normally goes through the Sheriff's Communication Center (SCC), who will either patch them to the same radio frequency as the local agency or call the agency directly on the phone. In addition to their regular handheld radios, the deputies also carry Department-issued cell phones, in which they could pre-program the phone numbers of local policing agencies and other points of interest.

Deputy Harper said even with the pre-programmed phone numbers, it takes time to scroll through the long list of numbers to find the right agency to call, because their phones only have a limited number of speed dials. Generally, if they need backup or assistance right away, they do it through SCC via their radio and request the back up to come from a specific local agency. But even that procedure is not without problems, because sometimes the radio operator at SCC may just request any Metrolink Bureau unit or Transit Services Bureau unit to respond to their location, not realizing that these units are stretched miles apart from each other and the closest ETA of the responding unit(s) may be hours away. Deputy Sherred said if they have the time, they can bypass SCC and call the local agency directly on their cell phones.

Deputy Harper and Deputy Sherred had been working together for about a month prior to the November 12, 2009, incident. On that day, they were assigned to conduct an audit of the train station in the city of Irvine or Fullerton. The audit calls for: 1) checking the security guard's guard card number, and determining whether he is armed and has on a bullet-resistant vest; 2) checking the condition of the train station, such as proper lighting and whether the ticket vending machines are properly protected; and 3) looking for any type of unusual activities. In general, the Metrolink deputies are "responsible for any crimes committed on the train or the destruction of Metrolink property," but most of the time, they are focused on pedestrians walking on the right of way (which includes the train tracks and the rocks -- or ballast -- on either side of the tracks), which has the potential of causing the train to stop or derail.

All train collisions are handled by the local policing agency, and the deputies assist by writing a supplemental report and making sure the tracks are reopen as soon as possible. When they are not riding the trains, the deputies conduct right of way enforcement, like citing and arresting trespassers and citing

motorists for stopping on train tracks. Deputy Harper said although the areas along the train stations and tracks are their primary responsibility, they are not confined to just that patrol area, because they can also enforce the law wherever they are at.

In regards to this incident, Deputy Harper (driver) said he and Deputy Sherred (bookman) were southbound on Breeden from westbound 4th Street in the city of Santa Ana -- looking for trespassers on the tracks -- when they saw Suspect Johnnie Jones standing in the bushes, with his back to the street. Suspect Jones was on the east side of the sidewalk, facing the wall of a building with his hands in front of him. Suspect Jones was fidgeting with his arms near the waist area and it appeared to Deputy Harper that Suspect Jones was either urinating on the wall or "playing with himself."

The deputies stopped their patrol car behind Suspect Jones and Deputy Harper told him to turn around. Suspect Jones turned around with his hands in his pants pocket, looking a little nervous as he walked toward the deputies. Deputy Harper ordered him to take his hands out of his pocket, but when the suspect did not comply, Deputy Harper drew his duty weapon with his right hand and pointed it out the car window at the suspect, ordering him a second time, *"Get your hands out of your pockets."* And again, the suspect did not comply and continued walking towards the deputies.

Concerned that Suspect Jones may have a weapon in his pockets, Deputy Harper exited the vehicle -- which was stopped near the middle of the road, about 15-20 feet away from Suspect Jones -- and Deputy Harper ordered Suspect Jones a third time to take his hands out, but he still did not comply.

Deputy Harper was the first to reach Suspect Jones on the sidewalk. With his left hand, Deputy Harper grabbed Suspect Jones' left forearm with the intention of pulling him down to the sidewalk. At the same time, Deputy Harper held the barrel of his gun -- with the safety off -- about six inches away from the Suspect Jones' head. Suspect Jones immediately pulled his left arm free and brought his left hand up to his mouth in an attempt to put something in his mouth.

After that, Suspect Jones went to the ground on his own and lied down on his side with his hands underneath him and the right side of his face facing up. Deputy Harper could not recall if the right side of the suspect's face hit the sidewalk when he went down, but right after the suspect had gone to the ground, he heard Deputy Sherred yell out, *"He's swallowing."* Deputy Harper

said he did not see this second attempt by the suspect to place something in his mouth.

Deputy Harper said since Suspect Jones refused to take his hands out from underneath him, he grabbed Suspect Jones' left arm and tried to yank it out. Deputy Harper was getting nowhere because the suspect was pretty strong and was bucking and squirming so much that Deputy Harper was prepared to shoot him if he had to. In the meantime, Deputy Sherred came over and tried to control Suspect Jones' legs.

At some point, Deputy Harper decided to re-holster his gun and not deploy deadly force. He put out a radio call via SCC that they were involved in an a fight and requested assistance from Santa Ana PD **(Exhibit D - CD of radio transmission)**.

In the meantime, he was focused on the suspect's upper torso, and although he was not watching Deputy Sherred's actions, he believed Deputy Sherred was trying to control the suspect's legs. When Deputy Harper heard Deputy Sherred say, *"He's kicking me. He's kicking me,"* he could feel the suspect's "body rock" and assumed Deputy Sherred had just kneed the suspect in the ribs or torso area.

After a few minutes of scuffling with the suspect, Deputy Harper decided he couldn't let the suspect assault his partner, so using a "hammer blow," he struck the right side of the suspect's face with the base of his right fist, all the while telling the suspect, *"Give up."* However, the suspect kept struggling and bucking and wouldn't take his hands out from under him. Deputy Harper delivered another "hammer blow" to the right side of the face, but again, the suspect would not give up.

Deputy Harper decided not to hit the suspect's face anymore out of concern that the suspect's head might explode from another blow. Instead, he grabbed the suspect's left arm with both hands and was finally able to pull it out for Deputy Sherred to handcuff the left wrist. Deputy Harper then pulled the suspect's right arm out with both hands for Deputy Sherred to handcuff. After the suspect was fully handcuffed, he stopped struggling and they sat him up on the sidewalk. Upon seeing blood on the suspect's nose and mouth, Deputy Harper radioed for the paramedics.

Santa Ana PD Officer [redacted] arrived shortly after the suspect was in custody. While the three of them were standing by the suspect, Suspect Jones said he was sorry. When Officer [redacted] asked him, *"For what?"*, Suspect Jones replied he was sorry for not cooperating and that he was nervous, or something to that effect.

IAB NOTE: Santa Ana PD Officer [redacted] wrote down Suspect Johnnie Jones' brief comment on a SAPD field interview report (FIR) card **(Exhibit B)** and gave it to the deputies. The note comprised of the following statements:

Suspect Jones:	*"I'm sorry."*
Ofcr [redacted]	*"Sorry for what?"*
Suspect Jones:	*"Sorry for not cooperating, but I got nervous."*

Deputy Harper added that the suspect was so strong and resistant to his blows to the face, that he thought the suspect must be under the influence of something.

IAB NOTE: About 24 hours after Suspect Johnnie Jones' arrest, a blood sample was taken at the Western Medical Center and it tested negative for controlled substances.

Deputy Harper said he did not use OC (oleoresin capsicum) spray because he didn't think it would have done any good. First of all when he went up to the suspect, he had his gun out and was preoccupied with the suspect's hands in case the suspect was holding a gun in his pockets. Secondly, during the fight, all three of them were so close to each other that the spray would have affected Deputy Sherred also.

Deputy Harper said he did not try to do a contact-Tase on the suspect while they were on the ground, because even with both hands on the suspect, he had very little control of the suspect and didn't want to risk losing total control by reaching for the Taser.

Deputy Harper was asked if there was any communication between him and Deputy Sherred during their initial contact with Suspect Jones, and he said he did not say anything to Deputy Sherred because it was obvious to him that

Deputy Sherred could hear what he was saying. When Deputy Harper approached Suspect Jones, he could hear the passenger door close and Deputy Sherred coming up behind him to help.

Deputy Harper said when he first radioed SCC for help from Santa Ana PD, the radio operator broadcasted for any Metrolink unit to respond to their location. Since the closest Metrolink unit was probably in the city of La Verne, Deputy Harper radioed back for them to call Santa Ana PD specifically. It turned out that the radio operator was already on the phone calling Santa Ana PD.

Involved Employee Brian Sherred [redacted]
Deputy Sheriff
Metrolink East - Orange County Line

On December 14, 2009, at about 1223 hours, Deputy Brian Sherred was interviewed by IAB Sergeant Scott Hill. Deputy Sherred was represented by Ms. Deborah Schild of the law firm of Green and Shinee. The interview was digitally recorded and summarized as follows:

Deputy Sherred said they are equipped with Department-issued cell phones and portable radios. They primarily use their radios to request backup from local agencies through SCC. SCC will either connect (patch) them to the agency's frequency or they will contact the agency directly. Deputy Sherred said SCC does a "pretty good" job with connecting them to the right agency.

Deputy Sherred said although they mainly do patrol checks on the train tracks and ballast, they can enforce the law anywhere they're at, including making observation detentions/arrests and traffic stops away from the tracks. Their duties varied from day to day. Somedays, they ride the trains or conduct 3-4 train station audits. Other days, they patrol the Metrolink property to provide security, and prevent graffiti and vandalism.

Deputy Sherred (bookman) and his partner Deputy Scott Harper (driver) were southbound on Breeden, just south of 4th Street, when they saw Suspect Johnnie Jones standing right up against the side of a wall with his back to the street. Suspect Jones was between a fence and a large bush, just east of the sidewalk, and it appeared to Deputy Sherred that Suspect Jones was urinating.

After watching for about 10-15 seconds -- without Deputy Harper and Deputy Sherred saying a word to each other -- Deputy Harper stopped the patrol car

slightly past the suspect and about 15-20 feet behind the suspect, and asked him to show his hands. As Deputy Sherred and Deputy Harper started to exit the car, he heard Deputy Harper yell, "Let me see your hands." This second order caught Deputy Sherred's attention because his partner "does not yell." At this time, Deputy Sherred did not know if Deputy Harper has his gun out or not.

After Deputy Sherred exited his vehicle, he could see Deputy Harper with his gun drawn, and the suspect with both hands in his pants pockets. Deputy Sherred could not determine if the suspect was rearranging his pants or if he was going for a gun in his pants. When Deputy Harper first reached the suspect, he had his gun pointed about two feet away from the suspect's head.

Deputy Sherred said Deputy Harper then grabbed the suspect's left forearm with his left hand and point his gun just inches away from the suspect's head. Deputy Harper's actions caused Deputy Sherred to wonder why Deputy Harper's gun was right by the suspect's head. Deputy Sherred said although it was not normal to place a gun so close to a suspect's head, he was comfortable with Deputy Harper's actions, even though it concerns him "every time a weapon gets pulled out."

As soon as Deputy Harper grabbed his left forearm, Suspect Jones spun to his right, breaking free of Deputy Harper's grasp. As Suspect Jones started to go down onto the sidewalk, Deputy Sherred saw him move his left hand up to his mouth, as if he was trying to "swallow something." Deputy Sherred did not tell Deputy Harper at that time regarding what he had just witnessed.

Once Suspect Jones landed on his right side on the sidewalk, Deputy Harper grabbed his left tricep/shoulder area with his left hand and placed a knee on top of his upper body, while still holding his gun in his right hand.

Deputy Sherred said Suspect Jones's left hand was slightly in front of him (suspect), but he could not see Suspect Jones' right hand because it was underneath his body and near his waist. Deputy Sherred got in front of Suspect Jones and as he grabbed for his left hand, Suspect Jones brought his left hand up to his mouth and swallowed what Deputy Sherred believed to a pea-sized piece of rock cocaine.

As Deputy Sherred continued struggling to gain control of Suspect Jones' left hand, Suspect Jones started kicking him with his left leg, and kneed Deputy

Sherred on the right leg. Deputy Sherred said he did not issue any commands, but he repeatedly heard Deputy Harper telling Suspect Jones, *"Stop fighting," "Give up,"* and, *"Put your hands behind your back."*

At this point, Deputy Sherred moved over to grab the suspect's legs to prevent him from kicking. They managed to place Suspect Jones' left arm behind his back and rolled him over onto his face and Deputy Sherred handcuffed his left wrist.

Deputy Sherred said he then moved over to the suspect's right side to pull the suspect's right arm out from under him, but because Suspect Jones was "really strong," he was unable to pull the suspect's right arm out.

Deputy Sherred kneed the suspect twice on right rib cage to get him to free up his right arm. At about that time, he saw Deputy Harper -- who had re-holstered his gun earlier during the struggle on the sidewalk -- delivered "hammered strikes" on the right side of the suspect's face. Deputy Harper then was able to "out muscle" Suspect Jones and bring his right hand behind his back so Deputy Sherred could fully handcuff both wrists.

Deputy Sherred said he did not use OC spray because there was the potential of contaminating Deputy Harper. In regards to the Taser, Deputy Sherred said he carries one on his left leg, but he did not feel it was a viable option because in order to Tase the suspect, he would have to give up what limited control he had of the suspect to get the Taser.

Deputy Sherred added that he was not present to overhear any of the comments between Santa Ana PD Officer [redacted] and Suspect Jones.

Deputy Sherred ended up with some soreness to his right leg from being kneed, but he did not seek medical care.